

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 8 | Issue 3
2025

© 2025 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

A Comparative Analysis of Indian and US Competition Law with regards to Unfair Trade Practices and its Enforcement Mechanism

BHUVANESHWARI.M¹ AND GAYATHRI. A²

ABSTRACT

India and the United States are the world's two largest economies, with India's GDP standing at ₹173.82 lakh crore and the United States' GDP at \$28.269 trillion for the year 2023-24. As two of the world's leading economies, India and the United States each have their own approaches to maintaining a marketplace free from Unfair Trade Practices (UTP) and monopolies. In this Research paper, the doctrinal method of study has been implemented to see how each country uses its own legal strategies and framework to restrict the UTP specifically in relation to misleading advertisements and promote the competition. In India, The Competition Commission of India was established under the Competition Act of 2002 which aim to prevent anti-competitive acts, promote market competition, safeguard consumer interests and ensure free trade. It further aims to achieve these objectives through two primary strategies, i.e., advocacy and enforcement. Advocacy aims to raise awareness and provide training on competition issues, whereas enforcement targets businesses to ensure compliance. Together, these activities aim to foster fair competition and improve consumer welfare in Indian marketplaces and strictly prohibit anti-competitive agreements, abuse of dominant position and certain combinations. In United States of America, the Congress passed the Sherman Act, in 1890, the first antitrust law, to promote open and unrestrained competition. This was followed by the Federal Trade Commission Act and the Clayton Act in 1914, which, along with the Sherman Act, serve as the cornerstone for current federal antitrust legislation. These statutes ban unlawful mergers and business operations and courts interpret their application based on individual instances. This paper aims to critically analyze how these rules have evolved over the last century in both the countries to meet the needs of evolving markets and to preserve consumer fair competition by encouraging efficient business operations, lowering prices, and maintaining high standards.

Keywords: Adverse effect on competition, Monopoly, Anti-trust law, false warranty, Price fixing, Misleading advertisement.

¹ Author is an Assistant Professor of Law, VISTAS, India.

² Author is an Assistant Professor of Law, VISTAS, India.

I. INTRODUCTION

Competition law is necessary to maintain a healthy competition and to keep a marketplace safe and free from the UTP such as deceptive, fraudulent, or unethical methods used to obtain business advantage which likely to result in monopoly. Developed and developing countries like USA and India have their own ways of keeping their marketplace free from such UTP. India has emerged as a globally recognized market, experiencing consistent growth where the US has its marketplace already recognized a long ago.

Competition is the foundation of an efficiently working market system, which has several advantages over a planned economy. It is the pre-condition which prevents freedom of decision and action of self-interested individuals or entities from leading to anarchy or chaos but rather to economically optimal socially fair and desirable market results.

The Constitution of India ensures free trade, commerce, and intercourse across the country to promote economic integration, remove trade barriers, and foster a unified market. The **Constitution of India** plays a significant role in shaping the legal framework for regulating Unfair Trade Practices (UTPs) in the country. Similarly, under US Constitution, The **Commerce Clause** (Article 1, Section 8) grants Congress the authority to regulate interstate commerce. This power is a key basis for federal antitrust laws because many antitrust issues, such as monopolies and unfair trade practices, cross state lines and involve interstate commerce. The clause allows Congress to pass laws aimed at promoting competition and preventing the concentration of economic power in a way that could harm the functioning of the market.

II. HISTORY OF THE COMPETITION LAWS IN INDIA AND USA

A. India

After the liberalization of the Indian economy in 1991, there was a major shift in the country's financial and economic policies. Numerous legal reforms were introduced during this period, aimed at deregulating various industries and promoting the growth of private sector enterprises. Against this backdrop, the High Level Committee on Competition Policy and Law, known as the "Raghavan Committee," was appointed to overhaul the existing antitrust legislation, the Monopolies and Restrictive Trade Practices Act of 1969. The Monopolies and Restrictive Trade Practices Act of 1969 (MRTP Act) was the first legislation introduced in India to regulate competition. Its primary objective was to prevent the concentration of economic power in the hands of a few individuals or market players, thereby curbing

monopolies. The MRTP Act has been amended twice in the year 1984 based on the Sachar Committee and in the year 1991. Despite of these amendments, the MRTP Act, 1969 has failed due to various reasons like vague and ambiguous provisions, excessive control of the government, Inefficiency of the MRTP Commission etc. Upon the recommendations and report of the Raghavan Committee released in 2000, in which it highlighted that the MRTP Act was insufficient for promoting competition in the market and curbing anti-competitive practices.

Therefore, in 2002, the Competition Act was introduced, replacing the MRTP Act together with related legislations, it aims to prevent market distortions caused by anti-competitive and UTP. In line with these recommendations, the Indian Parliament enacted the Competition Act, 2002 to “prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India.”³ that has been ensured under the Article 19(1)(g) ⁴and Article 301 ⁵of the Constitution of India, 1950. As a result of the Competition Act, 2002, it established the Competition Commission of India (CCI) to prevent anti-competitive and UTP and also to promote and sustain competition within the country.

B. United States

The first major antitrust law in the United States, the **Sherman Act**, was passed in 1890 to protect economic freedom and encourage fair competition. In 1914, two additional laws, the **Federal Trade Commission (FTC) Act** and the **Clayton Act**, were introduced to strengthen this framework. Together, these laws form the basis of U.S. antitrust law.

The **Sherman Act** makes it illegal to have contracts, agreements, or actions that restrain trade or lead to monopolization. However, not all restraints are banned only those deemed unreasonable. For example, forming a partnership might restrain trade, but it could be legal if it's not harmful to competition. However, certain actions, like price-fixing or market allocation, are always illegal and are called “per se” violations, meaning they are automatically illegal without needing further justification. Violations of the Sherman Act can lead to severe penalties, including criminal prosecution, especially for clear violations like price-fixing.

The Federal Trade Commission Act (**FTC Act**) outlaws “unfair methods of competition” and “deceptive acts or practices.” If a company violates the Sherman Act, it also violates the FTC

³ Competition Act, 2002- Preamble.

⁴ “to practise any profession, or to carry on any occupation, trade or business”.

⁵ “.trade, commerce and intercourse throughout the territory of India shall be free”

Act. The FTC enforces the FTC Act and can bring cases against anti-competitive practices not covered by the Sherman Act.

Then the **Clayton Act** focuses on specific anti-competitive behaviors not fully covered by the Sherman Act, such as mergers that reduce competition, or when an individual holds decision-making power in competing companies. The **Robinson-Patman Act** (1936) amended the Clayton Act to prevent unfair pricing between merchants, and the **Hart-Scott-Rodino Act** (1976) requires companies to notify the government before major mergers. The Clayton Act also allows individuals to sue for damages if they suffer from anti-competitive practices. These laws aim to ensure competition, prevent monopolies, and protect consumers from unfair practices.

III. UNFAIR TRADE PRACTICES

A. India

Section 2(1)(r) of the **Consumer Protection Act, 1986** defines “unfair trade practice” (UTP) as any trade activity that employs deceptive or unfair methods to promote the sale, use, or supply of goods or services. Such practices include false representations about the qualities, standards, or styles of goods that do not exist, misrepresentation of second-hand, rebuilt, or old goods as new, and untruthful claims about the quality or standards of services. Additionally, UTP includes false statements regarding approvals, sponsorships, benefits, or features of goods or services, misleading affiliations or endorsements about the seller or supplier, and deceptive reasons given for the need or usefulness of goods or services. It also covers false warranties or guarantees about a product's performance, durability, or quality without proper testing, as well as misleading price information, including deceptive price reductions or discounts. Disparaging competitors by spreading false information to harm the reputation of other products or services, misleading advertisements at “bargain price”⁶ and deceptive offers or contests, such as offering gifts or prizes without intending to provide them, are also considered UTP. Other forms of UTP involve withholding information from participants in promotional schemes, selling goods that do not meet safety standards, creating

⁶ The term “bargain price” means, -(A) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise; or (B) a price that a person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold; (iii) permitting - (a) the offering of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged, in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest, except such contest, lottery, game of chance or skill as may be prescribed; (c) withholding from the participants of any scheme offering gifts, prizes or other items free of charge on its closure, the information about final results of the scheme.

artificial demand through hoarding or destruction of goods to raise prices, and manufacturing or selling counterfeit goods⁷. These practices are aimed at protecting consumers from deceptive business conduct and ensuring fair and transparent trade.

Further, Section 36A of the **Monopolies and Restrictive Trade Practices (MRTP) Act, 1969** defines “unfair trade practice” by adopting the same definition from the **Consumer Protection Act, 1986**. This provision was added in the 1984 amendment to the MRTP Act, which aimed to protect consumers from deceptive and unethical trade practices. The MRTP Act primarily addressed legal actions against deceptive product representations, misleading advertisements, and false claims. It defined unfair trade practices as including the misrepresentation of used goods as new, along with inaccurate claims about the functionality, quality, or other attributes of products or services. The landmark case of *Lakhanpal National Ltd. Vs. M.R.T.P. Commission & ANR*⁸ clarified that the definition of “unfair trade practice” under Section 36A is specific and limited, aiming to ensure honesty and transparency in the relationship between manufacturers and consumers. It emphasized that the scope of unfair trade practices is not exhaustive but confined to the instances specified in the section.

The Consumer Protection Act, 2019 has further expanded the definition of “UTP” under Section 2(47). This includes new provisions such as failing to issue receipts (like bills or cash memos) for goods sold or services rendered as required by law, refusing refunds or returns for defective goods, or discontinuing services that are substandard. It also mandates that refunds must be made within the time specified on the receipt, or within 30 days if no time is indicated. Additionally, the Act includes provisions against the unauthorized disclosure of consumers’ personal information, which must be kept confidential unless legally authorized to share.

On the other hand, the Competition Act, 2002 does not explicitly define “UTP.” Its main focus is to foster competition by preventing anti-competitive agreements (Section 3), curbing the abuse of dominant market positions (Section 4), and regulating mergers and acquisitions. As such, “UTP” have mainly been addressed under the MRTP Act and the Consumer Protection Act.

B. United States

The Sherman Act, 1890 primarily addresses antitrust issues like monopolies and anti-competitive practices, but it does not specifically mention “UTP”. It targets actions that

⁷ Section 2(1)(r) of Consumer Protection Act, 1986

⁸ AIR 1989 SC 1692

restrain trade, such as price-fixing, bid-rigging, and market allocation agreements (Section 1), as well as monopolization or attempts to monopolize (Section 2).

The Federal Trade Commission (FTC) Act focuses directly on unfair or deceptive practices in commerce. Section 5 of the FTC Act (15 U.S.C. § 45) bans “unfair methods of competition” and “unfair or deceptive acts or practices.” A practice is considered unfair if it harms consumers without sufficient benefits or if it cannot be avoided by consumers. A deceptive practice involves misleading consumers and affecting their decision-making⁹. The FTC enforces these provisions using tools like investigations, cease-and-desist orders, and civil penalties.

The Clayton Act, 1914 deals with specific anti-competitive practices like exclusive dealing and tying arrangements that could harm competition. It supplements the Sherman Act by addressing practices before they become full violations, while the Sherman Act broadly prohibits anti-competitive conduct. The Robinson-Patman Act, 1936 strengthens the Clayton Act by addressing pricing practices that could harm competition.

In addition, in 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act introduced provisions addressing unfair, deceptive, or abusive practices in consumer financial products and services. Section 1036 and 1031 of the Act empower the Consumer Financial Protection Bureau to regulate such practices, including those that exploit a consumer’s lack of understanding of financial terms. This Act broadened consumer protection by including abusive practices, setting it apart from other laws focused only on unfair or deceptive acts. The key provisions related to UTP are Section 1036 (12 U.S.C. § 5536) and Section 1031 (12 U.S.C. § 5531). Section 1036 (12 U.S.C. § 5536) mainly focus on prohibition of “covered persons”¹⁰ and “service providers” from engaging in unfair acts or practices, deceptive acts or practices and abusive acts or practices.

IV. MISLEADING ADVERTISEMENT AS UNFAIR/ DECEPTIVE TRADE PRACTICES:

A. Misleading The Consumers:

The practice of using misleading advertisements and making false claims by traders to promote their products is a common occurrence in Indian as well as in international markets. Typically, traders market their goods by either withholding crucial information or overstating the quality of their products, often with false claims. Making such false statements can, in

⁹ See 15 U.S.C. § 45(a) (Section 5 of the FTC Act)

¹⁰ The term “covered person” means (1) any person who engages in offering or providing a consumer financial product or service; and (2) any affiliate of a person described in (1) if such affiliate acts as a service provider to such person. See 12 U.S.C. § 5481(6).

certain circumstances, be classified as an UTP. In the case of *Reckitt & Colman of India Ltd. v. Kiwi T.T.K. Ltd*¹¹, a comparative advertisement by Kiwi T.T.K., which implied that its shoe polish was superior to Reckitt & Colman's product. The advertisement displayed a leaking bottle resembling Reckitt's "Cherry Blossom" polish while showing the Kiwi product as non-leaking. The court ruled that while comparative advertising is permissible, it must not disparage competitors' products or mislead consumers. The advertisement was found to have crossed the line, leading to a ruling against Kiwi T.T.K., including instructions to remove specific disparaging content from the advertisement. The MRTP Commission ruled that comparative advertising was permissible as long as it did not disparage a competitor's product. In this judgment, five principles were laid down by the Court to decide as to whether a party is entitled to an injunction and further Kiwi was directed to modify its advertisement to avoid unfair competition. In another landmark case, *Tata Oil Mills Co. Ltd. v. Hindustan Lever Ltd.*¹² under the MRTP Act that also dealt with issues of misleading and comparative advertising.

In November 2023, a retailer and a ghee manufacturer were fined for misleading advertisements that falsely promised a ₹100 stainless-steel plate as a free gift with the purchase of a 200g ghee pack. A consumer in Gummidipoondi bought the ghee after seeing the ad but discovered the plate was of poor quality, weighing only 54g and worth only ₹20, not ₹100 as claimed. After his complaint was ignored, he approached the District Consumer Disputes Redress Commission in Tiruvallur. The ghee manufacturer argued the plate was worth ₹150 online, but the commission rejected this, stating the value was grossly overstated and amounted to an unfair trade practice. The retailer, Pothys, was also held accountable. The commission ordered both parties to pay ₹20,000 for mental distress and ₹5,000 for legal expenses. The consumer emphasized that the case was not about the money, but about holding companies accountable for false advertisements.¹³

Similarly, the Delhi State Consumer Disputes Redressal Commission has upheld a district commission ruling that deemed Uber India Systems Pvt Ltd's failure to provide a cab on time and non-resolution of the issue as a "deficiency in service"¹⁴.

¹¹ 63 (1996) DLT 29

¹² 1996(73)FLR1154

¹³ Refer - Times Of India, *A 100 gift ends up costing a retailer 25,000*, Times of India (Nov. 26, 2024), <https://timesofindia.indiatimes.com/city/chennai/chennai-retailer-fined-25000-for-misleading-gift-advertisement/articleshow/115707188.cms>.

¹⁴ Msn, <https://www.msn.com/en-in/news/India/failure-to-provide-cab-on-time-deficiency-in-service-delhi-consumer-panel-to-uber/ar-AA1viEbO?ocid=BingNewsSerp>.

B. Causing substantial injury to the consumers:

Under Section 5 of the FTC Act, UTPs are defined as actions that cause significant harm to consumers, cannot be avoided, and are not outweighed by benefits to consumers or competition. A notable example of this is the case of *FTC v. Kmart Corporation*,¹⁵ where the FTC accused Kmart of falsely claiming that its "American Fare" disposable plates were biodegradable. Kmart marketed the plates as biodegradable without sufficient scientific proof. The FTC stated that for a product to be labeled as biodegradable, it must decompose fully within a reasonable time in typical disposal conditions, which was not true for these plates. The case was part of the FTC's effort to address misleading environmental claims, and Kmart agreed to stop making such claims unless backed by reliable evidence. This case highlights how the FTC uses its authority under Section 5 to prevent deceptive advertising and protect consumers.

C. False warranties and guaranties:

Giving false warranty and guarantee as an unfair trade practice refers to deceptive or misleading business practices where manufacturers, sellers, or service providers promise performance, quality, or durability that they either do not intend to honour or cannot fulfill. The Ujala Supreme Case is a significant case related to false warranty advertising and UTP under the MRTP Act. Ujala Supreme, a fabric whitener, was advertised as offering "superior whiteness" compared to other products in the market. The manufacturer, Asian Paints found guilty of making false representations about the product, and the case set a precedent for how deceptive advertising and false warranties could be treated under the MRTP Act. The ruling primarily focused on ensuring that any claims made in advertising or warranties must be truthful and supported by credible evidence

D. Material representation:

In *FTC v. Colgate-Palmolive Company*¹⁶ the Supreme Court upheld the Federal Trade Commission's (FTC) ruling that an advertisement for Colgate-Palmolive's "Rapid Shave" shaving cream was deceptive under Section 5 of the FTC Act. The advertisement claimed the product could soften even the toughest materials, such as sandpaper, enough to allow a razor to shave it cleanly. The demonstration featured in the advertisement. However, they used Plexiglas coated with sand to simulate sandpaper, misleading the consumers into believing the product had extraordinary capabilities. The Court ruled that this constituted a material

¹⁵ Civ. No. 00-CV-71831-DT (E.D. Mich. 2001)

¹⁶ 380 U.S. 374 (1965)

misrepresentation, as reasonable consumers would assume the demonstration was genuine. The decision clarified that simulated demonstrations in advertisements are permissible only if they do not misrepresent a material fact or if the simulation is clearly disclosed. This case established stricter standards for advertising practices, emphasizing transparency and truthfulness to prevent misleading consumers.

E. Reliable scientific evidence:

In the case, *Federal Trade Commission v. Reebok International Ltd.*, Reebok International Ltd. advertised its line of “EasyTone” and “RunTone” shoes, claiming they provided enhanced muscle tone and strength in the legs, thighs, and buttocks compared to regular shoes. They claimed that these claims were based on purported scientific studies, which the FTC found to lack adequate substantiation. Reebok promoted these claims through various media, including TV, print, and online advertisements, emphasizing the fitness benefits of the shoes. It was held that the Reebok's advertising claims violate Section 5 of the FTC Act by being deceptive and lacking adequate scientific evidence. In consequence to that, Reebok agreed to pay \$25 million, which was used to refund consumers who purchased the shoes based on the misleading advertisements as monetary relief, in addition, it was also prohibited from making similar claims about its products unless they were substantiated by reliable scientific evidence. Under Section 5 of the FTC Act, advertisers must have competent and reliable scientific evidence to support claims, particularly those related to health, fitness, or performance benefits.

V. CONSUMER PROTECTION ACT, 2019

The Consumer Protection Act, 2019 defines UTP as deceptive, misleading, or exploitative business practices that violate consumer rights. The Act explicitly protects consumers from such practices and provides redressal mechanisms through Consumer Commissions and the Central Consumer Protection Authority (CCPA). Section 2(47) of the Act defines UTP as any fraudulent, misleading, or deceptive conduct in the promotion, sale, or supply of goods and services.

Previously, provisions addressing UTP were part of the MRTP Act, which focused on monopolies and restrictive trade practices. However, the MRTP Act's consumer protection aspects were limited. In response to modern market needs, the Consumer Protection Act, 1986 was introduced to specifically address UTP and consumer grievances. As markets liberalized and globalized in the 1990s, the MRTP Act became outdated, especially in its consumer protection scope.

The Consumer Protection Act, 2019 replaced the 1986 Act, strengthening protections against UTP. When the Competition Act, 2002 was enacted, the MRTP Act was repealed, and its provisions on monopolistic and restrictive practices were transferred to the Competition Commission of India (CCI). The Consumer Protection Act, 2019 now offers a more consumer-focused framework for addressing UTP, ensuring clearer and more effective protection for consumers.

VI. REGULATORY BODY

The establishment of the Central Consumer Protection Authority (CCPA) enhanced regulatory oversight on critical issues like false warranties and guarantees, ensuring greater accountability and consumer empowerment.

The CCPA has been established under the Consumer Protection Act, 2019, aims to safeguard consumer rights, prevent UTP, ensure consumer safety, and promote consumer awareness. Its objectives include protecting consumers from unfair practices, defective goods, and deficient services, while ensuring their rights to information, choice, and redressal. The CCPA actively monitors and penalizes deceptive business practices, including false advertising and misrepresentation, and regulates the sale of hazardous products by ordering recalls, refunds, or compensation.

VII. DAMAGES AND PENALTIES

The **MRTP Act** focused on civil remedies and regulatory actions to address unfair trade practices, without imposing criminal penalties like imprisonment. It allowed the MRTP Commission to issue cease-and-desist orders, requiring businesses to stop unfair practices immediately, and corrective actions, such as withdrawing misleading advertisements. Consumers could seek compensation for losses, and companies found guilty were instructed to modify or stop unethical practices. Fines were imposed for non-compliance with the Commission's orders to ensure accountability.

The **Competition Act, 2002** targets practices that harm competition or consumer welfare, like abuse of dominant position and anti-competitive agreements. Penalties under this Act can reach up to 10% of a company's average turnover over the last three years, with penalties for cartels as high as three times their profit or 10% of turnover, whichever is higher. The **CCI** can issue cease-and-desist orders and modify or cancel anti-competitive agreements. Directors or officials responsible for violations can be disqualified or held personally liable.

VIII. SUGGESTIONS

Despite the provisions and enforcement mechanisms under the Consumer Protection Act, 2019, UTP continue to occur. Businesses and service providers sometimes engage in deceptive practices to maximize profits, often exploiting gaps in enforcement, consumer unawareness.

A. India

To improve consumer protection and address unfair trade practices (UTP), the following measures should be considered:

- a. Strengthen the legal framework by providing precise definitions for UTP, such as predatory pricing, misleading advertisements, and cartelization, to ensure clarity and effective enforcement.
- b. Explicitly ban misleading advertisements and false claims to protect both consumers and competitors from deceptive practices.
- c. Give competition authorities and the Central Consumer Protection Authority (CCPA) the power to investigate and take action against UTP, ensuring effective enforcement.
- d. Update laws to tackle new challenges in the digital market, including digital monopolies, data privacy issues, and platform dominance, to keep up with evolving business practices.
- e. Increase awareness among the public about UTP, ensuring consumers are not misled by false warranties, hidden fees, or deceptive advertisements.
- f. **Reliability of Information:** Ensure that businesses provide scientific evidence and reliable information to avoid ambiguity in advertising and product claims.
- g. **Avoid Comparative Advertisements that discourage and harm the competitors' reputations and goodwill, fostering fair competition.**
- h. **Faster Complaint Resolution:** Speed up complaint resolution processes and impose stricter penalties for violations to enhance deterrence and consumer confidence.
- i. Mandate clear disclosures in advertisements, regulate celebrity endorsements, and ensure transparent labeling and certifications to help consumers make informed decisions.
- j. Strengthen regulations for e-commerce platforms to ensure they meet the same standards as traditional retailers, with stronger measures for product authentication and fraud prevention.

- k. Promote ethical business practices through Corporate Social Responsibility initiatives and monitor financial products to protect consumers from misleading terms.

B. United states

To effectively address unfair trade practices (UTP) and anti-competitive behavior, the following issues need to be addressed:

- a. Remove ambiguity in the definitions of UTP and anti-competitive behavior, as unclear concepts complicate consistent enforcement.
- b. Practices like algorithmic pricing, monopolistic dominance in digital platforms, and price-fixing are difficult to detect and regulate due to their complexity.
- c. Antitrust laws are criticized for being slow to respond to rapid technological advancements, such as the rise of digital platforms, e-commerce, and artificial intelligence, which present new forms of anti-competitive behavior.
- d. Agencies like the FTC and Department of Justice face limited resources, resulting in a backlog of cases and hindering effective enforcement. The global nature of digital markets adds further complexity, especially with misleading online advertising and monopolistic behaviors of tech giants.
- e. High legal barriers for consumers and small businesses, along with the difficulty of proving harm, make it challenging for cases to progress. Inconsistent enforcement across jurisdictions and political interference create regulatory gaps that corporations may exploit.
- f. Weak penalties and corporate influence fail to deter large companies from engaging in unfair practices, as they often view fines as a cost of doing business.
- g. Lack of consumer awareness about their rights under antitrust laws reduces public pressure for compliance, allowing UTP to persist.
- h. Focus on emerging concerns like data privacy, algorithmic pricing, and misleading digital advertising. Penalties for violations should be increased, especially for repeat offenders, and corporate executives should be held personally accountable for anti-competitive practices.
- i. Enhance whistleblower protections by providing incentives for reporting and secure, anonymous channels for whistleblowers to come forward.

- j. Expedite investigations and reduce legal costs for consumers and small businesses to improve enforcement efficiency and reduce delays.

IX. CONCLUSION

The Consumer Protection Act, 2019, was introduced as part of a broader effort to modernize and streamline the legal framework for consumer protection and market regulation. The MRTP Act has been replaced by the Consumer Protection Act, 2019, which has a more robust framework to address UTP, this shift was necessitated by the need to respond more effectively to the changing dynamics of modern markets.

Despite its limitations, the MRTP Act was a pioneering effort in India's economic regulation, laying the foundation for consumer protection and fair trade practices. Its replacement by the Competition Act reflects a shift towards a more robust and comprehensive framework to address modern economic challenges.

The study highlights significant differences in how India and the USA address unfair trade practices. India is evolving its mechanisms to meet modern challenges, while the USA has a mature system with a strong emphasis on enforcement. Both countries can learn from each other to ensure equitable and fair trade environments.

X. REFERENCES

BOOKS:

1. Competition Law by Dr. S.C. Tripathi
2. Competition Law in India, 3rd Edition by T. Ramappa
3. Anti-Trust Laws and Unfair Competition by U.S. National Recovery Administration

ONLINE SOURCES:

1. <https://www.imf.org/external/datamapper/profile/IND>.
2. Times Of India, A 100 gift ends up costing a retailer 25,000, Times of India (Nov. 26, 2024), <https://timesofindia.indiatimes.com/city/chennai/chennai-retailer-fined-25000-for-misleading-gift-advertisement/articleshow/115707188.cms>.
3. Msn, <https://www.msn.com/en-in/news/India/failure-to-provide-cab-on-time-deficiency-in-service-delhi-consumer-panel-to-uber/ar-AA1viEbO?ocid=BingNewsSerp>.
4. Antitrust Laws: What They Are, How They Work, Major Examples, (Jan. 31, 2023), <https://www.investopedia.com/terms/a/antitrust.asp>.
5. Eric Estevez, Unfair Trade Practice: Definition, Deceptive Methods and Examples, (Nov. 27, 2020), <https://www.investopedia.com/terms/u/unfair-trade-practice.asp>.
6. Dikshita More, Concept of Unfair Trade Practices under Consumer Protection Act, 2019, (Apr. 10, 2023), <https://www.lawyersclubindia.com/articles/concept-of-unfair-trade-practices-under-consumer-protection-act-2019-15757.asp>.
